

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

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ORLANDO MURRY, #148 623

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Plaintiff,

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v.

\* CIVIL ACTION NO. 2:05-CV-546-T

JAMES DELOACH, *et al.*,

\*

Defendants.

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**RECOMMENDATION OF THE MAGISTRATE JUDGE**

On June 23, 2005 the court granted Plaintiff twenty-one days to forward to the Clerk of Court an initial partial filing fee in the amount of \$32.00. (Doc. No. 4.) Plaintiff was cautioned that his failure to comply with the June 23 order would result in a Recommendation that his complaint be dismissed. (*Id.*) On July 21, 2005 the court directed Plaintiff to show cause why his case should not be dismissed for his failure to pay the initial partial filing fee in compliance with the court's June 23, 2005 order. (Doc. No. 5.) The order advised Plaintiff to inform the court whether he authorized prison officials to withdraw the funds from his prison account for payment of the initial partial filing fee, whether he was unable to comply at this time with the June 23 order, or whether he simply had chosen not to submit the filing fee. (*Id.*)

The requisite time has passed and Plaintiff has not provided the court with the initial

partial filing fee nor has he responded to the court's July 21, 2005 order to show cause. Consequently, the court concludes that dismissal of this case is appropriate for Plaintiff's failure to comply with the orders of the court.

Accordingly, it is the RECOMMENDATION of the Magistrate Judge that this case be dismissed without prejudice for Plaintiff's failure to comply with the orders of this court.

It is further

ORDERED that the parties are DIRECTED to file any objections to the said Recommendation on or before **August 22, 2005**. Any objections filed must specifically identify the findings in the Magistrate Judge's Recommendation objected to. Frivolous, conclusive or general objections will not be considered by the District Court. The parties are advised that this Recommendation is not a final order of the court and, therefore, it is not appealable.

Failure to file written objections to the proposed findings and recommendations in the Magistrate Judge's report shall bar the party from a *de novo* determination by the District Court of issues covered in the report and shall bar the party from attacking on appeal factual findings in the report accepted or adopted by the District Court except upon grounds of plain error or manifest injustice. *Nettles v. Wainwright*, 677 F.2d 404 (5<sup>th</sup> Cir. 1982). *See Stein v. Reynolds Securities, Inc.*, 667 F.2d 33 (11<sup>th</sup> Cir. 1982). *See also Bonner v. City of Prichard*, 661 F.2d 1206 (11<sup>th</sup> Cir. 1981, *en banc*), adopting as binding precedent all of the

decisions of the former Fifth Circuit handed down prior to the close of business on September 30, 1981.

Done this 8th day of August, 2005.

**/s/ Delores R. Boyd**

DELORES R. BOYD

UNITED STATES MAGISTRATE JUDGE